

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

**ELBA IRIZARRY CASTRO**

Debtor

FIRSTBANK PUERTO RICO

Movant

CASE No: 18-01254 (EAG)

CHAPTER 13

(X) 11 U.S.C. §1307 (c)(1) and (6), on  
*Dismissal for cause*

**MOTION TO DISMISS**

TO THE HONORABLE COURT:

Comes now **FIRSTBANK PR** through its undersigning attorney and very respectfully  
ALLEGES, STATES and PRAYS:

1. The case of reference was filed on March 8, 2018. The PCM plan dated September 23, 2020 (docket no. 100) was approved by the court on October 19, 2020 (docket no. 103).

2. Movant filed an unsecured proof of claim in the amount of \$4,432.44 regarding account no. 5592, identified as no. 2 at Claims' Register.

3. Debtor failed to comply with payments under the terms of the confirmed plan. According to the records made available by the Trustee, **as of November 9, 2021 Debtor owes \$425.00, equivalent to 2.12 months due.** (See Attachment "A".) [Movant's analysis on payments has been included with this motion as Attachment "B".] Said failure constitutes sufficient cause to request the dismissal of the instant case under the provisions of section 1307(c) of the Bankruptcy Code (11 U.S.C.).

4. Pursuant to the *Service Members Civil Relief Act*, the data of the Department of the Defense Manpower Data Center confirms that debtor is not a member of the Uniformed Services (U.S. Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health or Coast Guard.) (See Attachment "C".)

WHEREFORE and for the above stated reasons, Movant respectfully requests from this Court to enter an order dismissing the instant case *for cause*, pursuant to the dispositions of 11 U.S.C. §1307(c)(6), on the grounds of *material default by the debtor to the terms of the*

**Motion to Dismiss**  
**FIRSTBANK Puerto Rico**

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2

*confirmed plan and 11 U.S.C. §1307(c)(1), for unreasonable delay by the debtor that is prejudicial to creditors.*

**NOTICE**

Within thirty (30) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served or any other party to the action who objects to the relief sought herein, shall file and serve an objection or other appropriate response to this motion with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law, (2) the requested relief is against public policy or (iii) in the opinion of the Court, the interest of justice requires otherwise. (Local Bankruptcy Rule 9013-1(c)(2)(F)).

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 9<sup>th</sup> day of November, 2021.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy was served by CM/ECF at the authorized address to all creditors; José R. Carrión Morales, Esq., Chapter 13 Trustee; Gloria M. Justiniano Irizarry, Esq., counsel for Debtor and to Debtor by regular mail to the address of record: calle Alcazar 305, Urb. Sultana, Mayagüez, P.R. 00680, as per the attached *List of Creditors*.

//s// Maricarmen Colón Díaz  
**MARICARMEN COLON DIAZ**, Esq.  
Attorney for Movant - USDC 211410  
MARIA M. BENABE RIVERA - USDC 208906  
P.O. Box 9146, Santurce, P.R. 00908-0146  
Centro de Servicios al Consumidor (248)  
1130 Muñoz Rivera Ave., San Juan, P.R.  
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maricarmen.colon@firstbankpr.com



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**18-01254-EAG ELBA IRIZARRY CASTRO**  
(xxx-xx-2462)

URB SULTANA \$200.00 MO  
• 305 CALLE  
ALCAZAR •  
MAYAGUEZ •  
PR • 00680

Bar Date(s): 7/11/2018 (has passed) 10/29/2018 (has passed)

Confirmed: 9/4/2018

Case Status: ACTIVE

Trustee: José R. Carrión

Attorney: GLORIA JUSTINIANO\*

**Debtor Pay Schedules**

Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
6/1/2018	19.00	\$275.00	MONTHLY	ELBA IRIZARRY CASTRO	10/20/2020	
1/1/2020	1.00	\$840.00	MONTHLY	ELBA IRIZARRY CASTRO	10/20/2020	
2/1/2020	4.00	\$0.00	MONTHLY	ELBA IRIZARRY CASTRO	10/20/2020	
6/1/2020	36.00	\$200.00	MONTHLY	ELBA IRIZARRY CASTRO	10/20/2020	
6/1/2023	end of plan	\$0.00	MONTHLY	ELBA IRIZARRY CASTRO	10/20/2020	

**Forgive Information**

Date	Amount	Description
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**Payments Expected for Step 1:**

Period	Start Date	End Date	Payment Amount Expected	Total
1	6/1/2018	6/30/2018	\$275.00	\$275.00
2	7/1/2018	7/31/2018	\$275.00	\$550.00
3	8/1/2018	8/31/2018	\$275.00	\$825.00
4	9/1/2018	9/30/2018	\$275.00	\$1,100.00
5	10/1/2018	10/31/2018	\$275.00	\$1,375.00
6	11/1/2018	11/30/2018	\$275.00	\$1,650.00
7	12/1/2018	12/31/2018	\$275.00	\$1,925.00
8	1/1/2019	1/31/2019	\$275.00	\$2,200.00
9	2/1/2019	2/28/2019	\$275.00	\$2,475.00
10	3/1/2019	3/31/2019	\$275.00	\$2,750.00
11	4/1/2019	4/30/2019	\$275.00	\$3,025.00
12	5/1/2019	5/31/2019	\$275.00	\$3,300.00
13	6/1/2019	6/30/2019	\$275.00	\$3,575.00
14	7/1/2019	7/31/2019	\$275.00	\$3,850.00
15	8/1/2019	8/31/2019	\$275.00	\$4,125.00
16	9/1/2019	9/30/2019	\$275.00	\$4,400.00
17	10/1/2019	10/31/2019	\$275.00	\$4,675.00
18	11/1/2019	11/30/2019	\$275.00	\$4,950.00
19	12/1/2019	12/31/2019	\$275.00	\$5,225.00
Total				<b>\$5,225.00</b>

**Payments Expected for Step 2:**

Period	Start Date	End Date	Payment Amount Expected	Total
1	1/1/2020	1/31/2020	\$840.00	\$840.00
Total				<b>\$840.00</b>

**Payments Expected for Step 3:**

Period	Start Date	End Date	Payment Amount Expected	Total
1	2/1/2020	2/29/2020	\$0.00	\$0.00
2	3/1/2020	3/31/2020	\$0.00	\$0.00
3	4/1/2020	4/30/2020	\$0.00	\$0.00
4	5/1/2020	5/31/2020	\$0.00	\$0.00

Total				\$0.00
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Payments Expected for Step 4:

Period	Start Date	End Date	Payment Amount Expected	Total
1	6/1/2020	6/30/2020	\$200.00	\$200.00
2	7/1/2020	7/31/2020	\$200.00	\$400.00
3	8/1/2020	8/31/2020	\$200.00	\$600.00
4	9/1/2020	9/30/2020	\$200.00	\$800.00
5	10/1/2020	10/31/2020	\$200.00	\$1,000.00
6	11/1/2020	11/30/2020	\$200.00	\$1,200.00
7	12/1/2020	12/31/2020	\$200.00	\$1,400.00
8	1/1/2021	1/31/2021	\$200.00	\$1,600.00
9	2/1/2021	2/28/2021	\$200.00	\$1,800.00
10	3/1/2021	3/31/2021	\$200.00	\$2,000.00
11	4/1/2021	4/30/2021	\$200.00	\$2,200.00
12	5/1/2021	5/31/2021	\$200.00	\$2,400.00
13	6/1/2021	6/30/2021	\$200.00	\$2,600.00
14	7/1/2021	7/31/2021	\$200.00	\$2,800.00
15	8/1/2021	8/31/2021	\$200.00	\$3,000.00
16	9/1/2021	9/30/2021	\$200.00	\$3,200.00
17	10/1/2021	10/31/2021	\$200.00	\$3,400.00
18	11/1/2021	11/30/2021	\$200.00	\$3,600.00
19	12/1/2021	12/31/2021	\$200.00	\$3,800.00
20	1/1/2022	1/31/2022	\$200.00	\$4,000.00
21	2/1/2022	2/28/2022	\$200.00	\$4,200.00
22	3/1/2022	3/31/2022	\$200.00	\$4,400.00
23	4/1/2022	4/30/2022	\$200.00	\$4,600.00
24	5/1/2022	5/31/2022	\$200.00	\$4,800.00
25	6/1/2022	6/30/2022	\$200.00	\$5,000.00
26	7/1/2022	7/31/2022	\$200.00	\$5,200.00
27	8/1/2022	8/31/2022	\$200.00	\$5,400.00
28	9/1/2022	9/30/2022	\$200.00	\$5,600.00
29	10/1/2022	10/31/2022	\$200.00	\$5,800.00
30	11/1/2022	11/30/2022	\$200.00	\$6,000.00
31	12/1/2022	12/31/2022	\$200.00	\$6,200.00
32	1/1/2023	1/31/2023	\$200.00	\$6,400.00
33	2/1/2023	2/28/2023	\$200.00	\$6,600.00
34	3/1/2023	3/31/2023	\$200.00	\$6,800.00
35	4/1/2023	4/30/2023	\$200.00	\$7,000.00
36	5/1/2023	5/31/2023	\$200.00	\$7,200.00
Total				\$7,200.00

Payments Expected for Step 5:

Period	Start Date	End Date	Payment Amount Expected	Total
1	6/1/2023	6/30/2023	\$0.00	\$0.00
2	7/1/2023	7/31/2023	\$0.00	\$0.00
3	8/1/2023	8/31/2023	\$0.00	\$0.00
4	9/1/2023	9/30/2023	\$0.00	\$0.00
5	10/1/2023	10/31/2023	\$0.00	\$0.00
Total				\$0.00

Breakdown for Combined Schedules

Period	Date (Month/Year)	Payment Due	Payment Received	Forgive Amount	Amount Due
1	6/2018	\$275.00	\$551.10		(\$276.10)
2	7/2018	\$275.00	\$275.55		(\$276.65)
3	8/2018	\$275.00			(\$1.65)
4	9/2018	\$275.00			\$273.35
5	10/2018	\$275.00	\$275.55		\$272.80
6	11/2018	\$275.00	\$275.55		\$272.25
7	12/2018	\$275.00	\$275.55		\$271.70
8	1/2019	\$275.00			\$546.70



9	2/2019	\$275.00	\$551.10	\$270.60
10	3/2019	\$275.00	\$551.10	(\$5.50)
11	4/2019	\$275.00		\$269.50
12	5/2019	\$275.00	\$275.55	\$268.95
13	6/2019	\$275.00	\$275.55	\$268.40
14	7/2019	\$275.00	\$275.55	\$267.85
15	8/2019	\$275.00	\$275.55	\$267.30
16	9/2019	\$275.00	\$275.55	\$266.75
17	10/2019	\$275.00	\$275.55	\$266.20
18	11/2019	\$275.00	\$275.55	\$265.65
19	12/2019	\$275.00		\$540.65
20	1/2020	\$840.00	\$551.10	\$829.55
21	2/2020	\$0.00	\$840.55	(\$11.00)
22	3/2020	\$0.00		(\$11.00)
23	4/2020	\$0.00	\$200.00	(\$211.00)
24	5/2020	\$0.00		(\$211.00)
25	6/2020	\$200.00	\$200.00	(\$211.00)
26	7/2020	\$200.00	\$200.00	(\$211.00)
27	8/2020	\$200.00	\$200.00	(\$211.00)
28	9/2020	\$200.00	\$200.00	(\$211.00)
29	10/2020	\$200.00		(\$11.00)
30	11/2020	\$200.00		\$189.00
31	12/2020	\$200.00		\$389.00
32	1/2021	\$200.00		\$589.00
33	2/2021	\$200.00	\$789.00	\$0.00
34	3/2021	\$200.00		\$200.00
35	4/2021	\$200.00		\$400.00
36	5/2021	\$200.00		\$600.00
37	6/2021	\$200.00		\$800.00
38	7/2021	\$200.00		\$1,000.00
39	8/2021	\$200.00	\$1,375.00	(\$175.00)
40	9/2021	\$200.00		\$25.00
41	10/2021	\$200.00		\$225.00
42	11/2021	\$200.00		\$425.00

Total Delinquent Amount: \$425.00



# First Bank

Attachment "B"

## Analysis Sheet to Determine Arrears to Trustee

IN RE: ELBA IRIZARRY CASTRO Case # 18-01254 EAG

Date petition filed:	8-Mar-18				
First payment due:	8-Apr-18				
According to Plan:	22-Sep-20				
Monthly Payment of:	\$ 275.00	\$ 840.00	\$ -	\$ 200.00	
Term:	19	1	4	36	
Pass Term:	19	1	4	18	
Should Have Paid In:	\$ 5,225.00	\$ 840.00	\$ -	\$ 3,600.00	
Total Paid Into Plan:	\$ 5,225.00	\$ 840.00	\$ -	\$ 3,175.00	
Amount in Arrears:	\$ -	\$ -	\$ -	\$ 425.00	

TOTAL \$ 425.00 (2.12 months)

Printed On: 9-Nov-21

Prepared by: MARICARMEN COLON DIAZ, Esq.

Department of Defense Manpower Data Center

Results as of : Nov-09-2021 03:18:01 PM

SCRA 5.11



**Status Report**  
**Pursuant to Servicemembers Civil Relief Act**

SSN: XXX-XX-2462  
Birth Date: May-XX-1942  
Last Name: IRIZARRY CASTRO  
First Name: ELBA  
Middle Name:  
Status As Of: Nov-09-2021  
Certificate ID: 9DLV4DMQNF10MZ

*Attachment "C"*

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

*Michael V. Sorrento*

Michael V. Sorrento, Director  
Department of Defense - Manpower Data Center  
400 Gigling Rd.  
Seaside, CA 93955

Label Matrix for local noticing  
0104-2  
Case 18-01254-EAG13  
District of Puerto Rico  
Ponce  
Tue Nov 9 15:53:15 AST 2021

COOP A/C SAN JOSE  
JOSE A SANTINI BONILLA ESQ  
PO BOX 552  
AIBONITO, PR 00705-0552

US Bankruptcy Court District of PR  
Jose V Toledo Fed Bldg & US Courthouse  
300 Recinto Sur Street, Room 109  
San Juan, PR 00901-1964

BANCO POPULAR DE PUERTO RICO  
BANKRUPTCY DEPARTMENT  
PO BOX 366818  
SAN JUAN PR 00936-6818

Banco Popular De Puerto Rico  
PO Box 71375  
San Juan, PR 00936-8475

COOPERATIVA A/C SAN JOSE  
PO BOX 2020  
AIBONITO PR 00705-2020

FIRST BANK  
CONSUMER SERVICE CENTER  
BANKRUPTCY DIVISION (CODE 248)  
PO BOX 9146 SAN JUAN PR, 00908-0146

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PO Box 9146  
San Juan, PR 00908-0146

Island Finance  
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P/C Banco Santander De Puerto Rico  
San Juan, PR 00919-5369

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(p)CITIBANK  
PO BOX 790034  
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MONSITA LECAROS ARRIBAS  
OFFICE OF THE US TRUSTEE (UST)  
OCHOA BUILDING  
500 TANCA STREET SUITE 301  
SAN JUAN, PR 00901

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Jefferson Capital Systems LLC  
Po Box 7999  
Saint Cloud Mn 56302-9617

Sears  
PO Box 183081  
Columbus, OH 43218-3081

End of Label Matrix  
Mailable recipients 14  
Bypassed recipients 0  
Total 14